

The Social Impact of Expanding the Indonesian Military Mandate on Counter-terrorism

Implikasi Sosial Perluasan Tugas Tentara Nasional Indonesia dalam Kontra Terorisme

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Abstrak: Saat ini pemerintah tengah melakukan penyusunan dan pembahasan Peraturan Presiden tentang perluasan tugas TNI dalam Mengatasi Aksi Terorisme. Upaya ini merupakan alternatif untuk menghadapi ancaman terorisme di Indonesia yang terus berkembang dan memperkuat proses penanggulangan terorisme yang telah dilakukan lembaga kontra-teror sipil. Oleh karena itu, dengan menggunakan metode studi pustaka, tulisan ini akan mencoba mengungkapkan implikasi sosial dari keterlibatan militer dalam upaya kontra terorisme. Tulisan ini mengulas mengenai pengerahan militer dalam penanggulangan terorisme, upaya penanggulangan terorisme yang telah dilakukan lembaga kontra-teror sipil, gambaran pelibatan TNI dalam kontra-teror, implikasi perluasan pelibatan TNI dalam kontra-teror, dan implikasi dalam kehidupan sosial-kemasyarakatan Indonesia. Tulisan ini menyimpulkan bahwa dampak sosial perluasan peran TNI dalam kontra-teror perlu diimbangi dengan keinginan masyarakat serta mendefinisikan ulang arti dari ekstremisme agar tidak terjadi polemik di masyarakat.

Kata Kunci: hubungan sipil-militer; kebijakan keamanan; kontra-terorisme; militer Indonesia

Abstract: The government has currently drafting and discussing a Presidential Regulation on expanding the Indonesian military mandate on combating terrorism. This



regulation was proposed as an alternative to combat threats from growing terrorism in Indonesia and to strengthen anti-terrorism acts initiated by civil counter-terrorism institutions. This paper uses a literature study to observe the social implications of military involvement in counter-terrorism. The writers try to review the deployment of the military to combat terrorism, the counter-terrorism from civil counter-terrorism institutions, military involvement in counter-terrorism and its implications, as well as its implications on Indonesia's social sector. It was concluded that the social impact of expanding the role of the military in counter-terror needs to be balanced with the community's wishes and redefine the meaning of extremism to avoid polemics in the community.

Keywords: civil-military relations; counter-terrorism; Indonesian military; security policy

Introduction

Indonesian military involvement in counter-terrorism has always drummed up responses from various national actors about how the military should work with other institutions, which has not been properly solidified. Although counter-terrorism institutions exist in Indonesia, like the National Police and the National Counter-Terrorism Agency (NCTA), the government has yet to have an effective mechanism for counter-terrorism. The Law on Criminal Act of Terrorism Number 5 of 2018 (Law on Terrorism), the Law on National Police Number 2 of 2002 (Law on National Police), and the Law on Indonesian Military Number 34 of 2004 (Law on Military) are the main references for the government in the fight against terrorism. However, those laws and other subordinated regulations are inadequate to fight evolving threats.

The democratization process in Indonesia has put the military as merely the assistance provider and last resort. NCTA and Special Detachment 88 (SD 88, a special division under national police for counter-terrorism purposes) are usually deployed first. At the same time, the military (The Indonesian National Armed Forces) will line up if the circumstances get precarious. The existing formal arrangements leave the authority with loose legal interpretations with so many security instruments in hand. Hence, the government should create good policies to give the military proper strategic regulation, especially to adjust to evolving threats. The regulation will act as a legal basis for military involvement in combating high-intensity terrorism and using military intelligence for early terrorism detection. Thus, Presidential Regulation Number 7 of 2021 concerning the National Action Plan for the Prevention and Combating of Violent Extremism that Leads to Terrorism for 2020–2024 (PR on Counter-terrorism) was published on January 7, 2021.

This presidential regulation administers how military forces should be deployed with other civil security-related institutions to combat terrorism. The military will have to divide its tasks to provide the country with a proper defense system from external threats while juggling other functions mandated by the law. On the other hand, legal deliberations and human rights agitations demand consistency and a strict limitation of military intervention in the civilian aspect of counter-terrorism. Hence, this paper will observe the social implications of military involvement in counter-terrorism.

To see the novelty of this research compared to previous research, the writers conducted a literature study by finding several definitions of earlier studies that discussed the military's involvement in counter-terrorism practices in Indonesia. Several studies examine the partiality of military participation in the fight against terrorism, such as Triska Putri (2019) and Wulansari (2017). Other studies state the arguments for their impartiality

to the military's involvement in counter-terrorism, namely Mengko (2017) and Jusi (2019). Another study by Ihsan (2019) stated some alternatives against military involvement in counter-terrorism. Meanwhile, Novianti and Lase (2021) discuss the social impact of military law enforcement and its responsibilities following the mandate of the applicable law.

This paper uses a qualitative method, whereas the data was collected with a literature study and review (Creswell, 2014). Official national documents on Indonesia's counter-terrorism and regulations that bind the field are used as the primary data and literature review to analyze supporting information as the secondary data, such as PR on Counter-terrorism, Law on Terrorism, Law on National Police, and Law on Military.

Using this method, the author uses data analysis techniques by reducing data to take the focus of the research discussed so that the issues raised will be more focused. Miles and Huberman (1994) use reduction to focus the data taken so that it can be used to discuss the problem formulation.

Counter-terrorism

There is no standard definition of counter-terrorism. However, counter-terrorism, at least, involves practice, technique, and strategy used by the government, military, law enforcer, business entities, and intelligence agencies to combat or intercept terrorism. Only after the Bali Bombing in 2002 did President Megawati—Indonesia's president—issue Presidential Instruction Number 4 of 2002 on creating comprehensive counter-terrorism regulation that includes prevention, interception, termination, adjudication, and all necessary legal actions to combat terrorism.

The establishment of NCTA was a milestone for Indonesia's counter-terrorism strategy. It pushes the nation to actively use soft power to complement the existing hard power of SD 88. The soft power approach was a part of the preventive counter-terrorism strategy by countering radical ideologies and propaganda—the radical propaganda said to be the root cause that recruited civilians into the radical movement. So, what happens when the military can join the work?

Triskaputri (2019) said there are pros and cons to the military's involvement in Indonesia's counter-terrorism. The military's involvement indicates that acts of terrorism are already at the stage of threatening state sovereignty or are beyond the reach of the national police. Military participation in counter-terrorism is limited to fighting and arresting terrorist groups and needs to address the root causes of terror-related activities to political, economic, and social problems. Wulansari (2017) added that before involving the military, the government needs to determine the level of terrorist threats; of how severe the threat is against sovereignty. Thus, the authorized government can issue a political decision and an appropriate security situation that involves the military to combat terrorism. This mechanism is legal as specified in the Law on Military Article 7 paragraph (2) related to the military's primary duties in carrying out operations. Non-warfare military operations (NWMO), the tackling acts of terrorism, must be deployed based on the government's political decisions to operationalize counter-terrorism.

In contrast to openness to military involvement in counter-terrorism, Jusi (2019) and Mengko (2017) described their impartiality to military involvement. According to Jusi (2019), acts of terrorism are still in the grey area because armed civilians generally participate. It can affect the government's response in dealing with terror acts as long as terrorists are still referred to as a form of crime. It is within the national police's scope of authority to arrest, investigate, and bring to justice, as the military's involvement is only a support. Therefore, the government must impose strict rules to distinguish the urgency of the military's involvement in counter-terrorism. That is the boundaries of what must be

done both at the strategic and tactical levels to avoid chaos in the “conquest of the stage” between the national police and the military, to create an integrated action from both institutions.

Mengko (2017) argues that the root of terrorism lies in ideological matters and the injustice felt by a group in the economic and political sectors. The argument raises questions about how the military approach answers ideological, economical, and political problems. What needs to be done by the authorities is to provide education to the public, both in efforts to deradicalize and law enforcement efforts that can improve community welfare. Military involvement must be based on national political decisions that include crucial primary considerations since history has shown how the threat has escalated and also remains related to the civil supremacy of each democratic country.

Furthermore, Ihsan (2019) conveyed the importance of an effective supervisory mechanism if the military carries out counter-terrorism acts, controlling external parties and the performance. Thus, supervision of the military’s version can ensure that counter-terrorism run according to the rules and authorities of each institution. Handling terrorism is an intelligence act hence the oversight mechanism can be assigned to an independent commission or particular organ in parliament. The handling also requires community involvement to avoid the government’s misuse of acts of terrorism. Military involvement in counter-terrorism has risks and potential, especially in maximizing a country’s ability to tackle terrorism.

National Action Plan for Countering Extremism

PR on Counter-terrorism is a regulation that contains the National Action Plan for Countering Extremism in Indonesia and an effort from the government to tackle terrorism softly. It will also implement several coordinated with various parties, namely related ministries or institutions. This is done to mitigate criminal acts of terrorism and violent extremism. This is a complementary instrument to various laws and regulations related to terrorism.

Some of the discussions included in it include action steps to counter extremism. These steps include coordination between institutions/ministries to prevent and overcome violent extremism that leads to terrorism. Encouraging ministries/institutions and civil society to participate and synergize in countering violent extremism lead to terrorism. Furthermore, it explains the capacity of human resources in preventing extremism and conducting surveillance, early detection and early prevention of acts of extremism. Another discussion is about the attention and protection of victims of criminal acts of terrorism.

The point that needs to be underlined from PR on Counter-terrorism is the supervision, early detection and early prevention steps taken by related ministries/institutions. The military’s involvement in counter-terrorism is stipulated in PR on Counter-terrorism that related ministries or institutions can carry out counter-terrorism, including the Indonesian National Armed Forces.

According to Military Law, the military has two main tasks: war and non-war operations. Under non-war operations, the military is mandated to deploy counter-terrorism missions and eradicate any possible threats to the country’s survival. Not only at the time of execution, but the military also has an important role in intelligence gathering to prevent terrorist acts. The Terrorism Law authorizes the military to take action against terrorism following its functions. The proposed presidential regulation will regulate further details on how it is mobilized.

PR on Counter-terrorism comes to shift the role of military in counter-terrorism. Having observed the proposed presidential regulation evolving in seven chapters and 15 articles,

the first notable object is that the three terms used for counter-terrorism measures differ from those in the Law on Terrorism. The proposed presidential regulation uses deterrence, enforcement, and reversion, while the Law on Terrorism uses prevention, eradication, investigation/prosecution/inspection, and reversion/rehabilitation/de-radicalization. The terms used in the proposed presidential regulation refer to those in the Law on Military on the functions of the military as a state's tool (Article 6). In other words, this proposed presidential regulation drives the counter-terrorism acts regulated by the Law on Terrorism to be more likely in favor of military ways implied in the Law on Military. This also means there is an early sign of shifting in the counter-terrorism approach in Indonesia that moves from the criminal justice model to the war model (McCauley, 2009).

A question mark rises against the absence of details on PR on Counter-terrorism (Article 4 [1]), which describes no particular type of intelligence gathered by the military officers. There are two kinds of intelligence in the eyes of the military; one, the common information handled by the Strategic Intelligence Agency (SIB), and two, battle intelligence handled by Main Operation Command (Kotama Ops). Those two have different utilities as battle intelligence is meant to be addressed with the military operation, while the common information will be used for the non-warfare operation. However, the SIB cannot act alone and should coordinate with the national police, NCTA, and National Intelligence Body (NIB) (Fahrizal, 2020). This loose clause will create a divided mind for the military while it needs to prepare its military operation for external threats and possible terrorist attacks at home. Should the proposed presidential regulation give the details on intelligence works, the military would only be a handy force to the national police and NCTA and be able to focus on its main duty.

Moreover, territorial operation regulated within the PR on Counter-terrorism (Article 4 [2]) implies counter-insurgency characteristics to the counter-terrorism act. Four features of territorial operation mentioned by the PR on Counter-terrorism are similar to the four pillars of counter insurgencies mentioned by Alexander Alderson (Keaney & Rid, 2010). This is because the military's historical journey is engraved in the middle of Indonesian society and has been involved greatly in creating the country's basic arrangement. Thus, Indonesia faces a dilemma of consistently carrying out the criminal justice or war models. Unlike the Indonesian military, western countries' militaries were created by their respective civilian government, so they were meant to obey and serve the civilian government from the day they were established. So in the case of exercising its territorial operation, the military needs some adjustments to ensure it wins the heart and minds of the Indonesian people and, at the same time, does not break any civilian regulations (Fahrizal, 2020). If it does not change, the military will always be under its old days' shadow, and its operation will not be suitable for the current state of terrorist threats.

Establishing proposed presidential regulation creates a simple operation procedure to mobilize the military. Consequently, this proposed presidential regulation excluded the parliament's role in deciding when to use the military for counter-terrorism, according to the Law on Terrorism (Article 43 I [3]). However, that is against the Law on Military mandating any military mobilization for non-warfare operation purposes shall be based on the country's policy (Article 7 [3]). This means the president shall seek parliament's approval before rallying military forces for non-warfare operations, including counter-terrorism missions. Besides, the PR on Counter-terrorism also allows the military to have external funds besides the national budget (Article 14), implying an attempt to open up more fund sources that the Law on Military has strictly regulated. In other words, the military will be merely under the executive order, without proper control by the parliament, even in the funding part for counter-terrorism purposes.

The current security situation around Indonesia seems not under an immediate urgent terrorist crisis as the country is still dealing with the Covid-19 pandemic. Many have argued the lack of urgency to shift the military's role in counter-terrorism through proposed presidential regulations. The proposed presidential regulation was submitted in the middle of 2020, just when the pandemic outbreak hit Indonesia in March 2020. Nevertheless, the proposed presidential regulation draft sent to the Indonesian Parliament-to Commission I-was prepared to be signed by Tjahjo Kumolo, who acted as an acting Minister of Law and Human Rights. He held that position in the last days of President Joko Widodo's first term or on 30th September 2019. In other words, the proposed presidential regulation set to be a long-term policy on counter-terrorism has not been released because of the escalated crisis of the ongoing situation.

The Indonesian government's current concern that can be characterized as a terrorist attack is the unrest in West Papua. The Free West Papua Movement has been claimed as the scapegoat behind several terror attacks that disturbed West Papuan tranquillity and government projects. Even Vanuatu and some Pacific countries have shown their support internationally to the Free West Papua Movement and cry for their freedom from the Indonesian occupation. For the Indonesian government, ambushes from the Free West Papua Movement against the military mean terrorist attacks instead of common crimes. In other words, it becomes more politically obscured when assessing a threat close to criminal, terrorism, and insurgency. Since the proposed presidential regulation is prepared for a long-run policy, it should be completed with a threat assessment that can be the ground for mobilization (Arif, 2018). Besides, it also will curtail political bias and be the responsible conduct of the civilian government to the public.

Along with the threat assessment for the proposed presidential regulation, the government has to answer several questions on legal contradictions raised by the experts and activists (Thea, 2020b). The great concern is the inability of the civil court to put military personnel on trial under common criminal charges and possible human rights abuse by the military. The greater authority to get itself involved in counter-terrorism regulated in the proposed presidential regulation will give more space for the military to go along with the national police and NCTA, or even more dominant than those two. In the negative scenario, the thick political interest exchanges surrounding the military might cost its good image before the Indonesian public due to the institutional reform post-1998 Reformation Era (Thea, 2020a).

The connection between the draft presidential regulation on the involvement of the military in counter-terrorism and the deployment of the military is in terms of the use of the military and the military's role in a country. Political interests will damage the image of the military if the implementation is the same as in 1998, when the military had full power over state security over the national police and NCTA. Furthermore, the definition of violence that leads to terrorism is still abstract and needs to be reviewed. This will impact the frequent arrests of civilians caused by the regulation.

Military personnel will come in handy to minimize the damage and victims of terrorist attacks. However, this brings the dilemma between criminality and warfare, especially democratic values. The use of force in democratic values has often been feared as a potential precursor to militarism within the host country. Regardless of such fear, the use of force can still be justified, particularly when it comes to self-defense (Greener, 2007, pp. 295–318). As terrorist attacks might be a mutative form of traditional warfare (Eppright, 1997, pp. 333–344), the legitimate use of force in democratic states can also be explained by Just War Doctrine, an international regime for general military deployment

(Heywood, 2014). Its ability and equipment to encounter such extreme assaults have the military prepared to mobilize for counter-terrorism missions (Sen, 1991, pp. 58–62).

However, using the military approach in counter-terrorism also brings a price to democracy and several other aspects of the country. Society will assume that the country is in the middle of a security crisis, like war, and, consequently, cost their liberty for national security. In other words, the quality of democracy in the procedure is jeopardized to the extent of military disposition (Satana & Demirel-Pegg, 2020, pp. 815–836). In some cases, the excessive military arrangement has increased radicalization as the ‘collateral damage.’ It is considered dreadful, causing injustice in society. Following the core objective of terrorism, eradication is to win people’s ‘hearts and minds’, the military’s role in counter-terrorism should only be about the level of ‘minimum force’ to prevent the image of being an occupier (Kortweg et al., 2010).

Democratic countries should develop the understanding that military deployment is a double-edged sword. The two formulations are soft power and hard power. Both acted to accommodate the advantages and disadvantages of military mobilization to fight terrorism (Nasser-Eddine et al., 2011). Soft power is a strategy to deradicalize by involving community participation, social rehabilitation and reintegration. Meanwhile, if necessary, hard power refers to all offensive and defensive strategies through law enforcement, intelligence operations, and military deployment.

In the case of Indonesia, a long history of military deployment has equipped itself with a wide range of network units, from Jakarta to the utmost villages around the country. In other words, besides having trained to deal with violent combats, the military also has territorial-military units that can be used for intelligence purposes, community services to minimize the spread of extremist ideologies, and other social works.

However, there is little training for counter-terrorism operations in those districts due to its institutional branch limitations. Hence only the military in the dominant regions, if not in the capital alone, are ready to conduct this kind of responsibility. Once the national government wants to adjust the military for counter-terrorism works, the subject of discussion comes back once more on why the military should get involved in counter-terrorism operations, to what extent it should be used, and what are the strategic implications behind its engagement with other civilian authorities in this kind of affairs.

Indonesian Military and Counter-terrorism

The military in Indonesia has an important role in intelligence gathering to prevent terrorism. SIB works under the military to support the military’s main objectives. The Terrorism Law authorizes the military to take action against terrorism following its functions. Furthermore, the proposed presidential regulation will regulate further details on how it is mobilized.

The term criminal act of terrorism implies that terrorist acts are treated as unlawful, which describes the general paradigm of counter-terrorism in Indonesia. It guides security agencies, including the military, to focus more on preventing domestic damage from terrorist attacks. It develops the idea that it is the primary obligation of public order, maintenance, and law enforcement, in this case, national police, to take further action against terrorism.

The global counter-terrorism movement in the early twenty-first has shifted the military’s role in counter-terrorism so that the national police have a major role in counter-terrorism. The military only focuses on external threats that may have characteristics of terrorism and certain military actions against terrorism. That leaves the character of anti-terrorism law in Indonesia as a criminal justice model (McCauley, 2009). However, this

lack of military action is understandable because, at that time, the military was still in the process of reformation to clear its name after a long period of Suharto's New Order.

Social Implication

Military deployment in counter-terrorism has triggered criticism and opinions in society. For those who support it, the deployment is considered a part of the military's core mandate to defend sovereignty. They consider terrorism not only a threat to public order and security but also national ideology and public safety. The ongoing pattern of targeting security forces, vital national objects, and foreign delegations requires special operations that can only be done by the military (Imran *et al.*, 2018, pp. 3–12). Society also views that detaching trained military, marine, and air forces can be more effective for the government to combat growing terrorism (Hui, 2013).

On the other hand, some people disagree with the proposed regulation. They're afraid that the expansion will be ineffective in combatting terrorism. The aggressive, hard power approach in counter-terrorism can be counter-productive with the existing soft power approach. Currently, the NCTA and civic society have tried to use soft power by initiating a deradicalization approach, campaigning counter-narration against terrorism through digital media and interfaith dialogues. The agency has also initiated Peace Media Center (Fauzi, 2021), Cyber Peace Ambassador Initiative, and NCTA Video Festival by involving young influencers as peace agents with counter-narration internet campaigns (Bhwana, 2019).

Some parties also deplore the draft presidential regulation on the involvement of the Indonesian National Armed Forces because it will lead to excessive force. Excessive use will have an impact on limiting the movement of every human being. Then, one party in Indonesia said that this regulation will be subjective because the definition of extremism is still abstract. The party said it was better to revise the terrorism law due to the different handling of previous cases. The handling of the case in question is the action against groups wearing Islam but not the Papuan armed criminal groups, which have not been resolved until now (Santoso, 2021).

There were also efforts to work with Muslim clerics and preachers who have a strategic role in influencing the danger of terrorism, promoting peace, and avoiding heretic ideologies like radical terrorism that had threatened security, especially in remote areas with no access to digital media (Wijayaka, 2020). Moreover, the involvement of preachers can be early pre-emptive detection of radical and terrorist ideologies (Ameliya, 2022).

The next implication is regional instability because citizens will directly or indirectly experience violence throughout the military operation (Hughes, 2011). This happened in the Darul Islam case, where a militaristic approach was used to combat terrorism had triggered the Free Aceh Movement (Imran *et al.*, 2018, pp. 3–12). Currently, the main challenges in counter-terrorism are to prevent the creation of new terrorist cells or groups and to capture the terrorist network. The aggressive, hard power approach may push civil society to cooperate with the government for fear of being considered as helping the terrorist network.

The government must convince the public that expanding the military mandate on counter-terrorism shall be done within civil supremacy framework and ensure the practice of the Pancasila democracy system. The government must also ensure that this expansion won't create post-Reformation era abuse of power. This can be done with threat assessment assessed by civil authority and political decisions before starting an operation, and the military cannot initiate or propose operations to civilians. The government also needs to communicate with the public that this expansion is the last resort only and ad hoc.

Thus, the public will know that the regulation won't potentially give the military channel to abuse its main mandate and function as a national instrument to defend national security.

Conclusion

The military's involvement in Presidential Regulation Number 7 of 2021 on the National Action Plan for the Prevention and Combating of Violent Extremism that Leads to Terrorism for 2020–2024 (PR on Counter-terrorism) has resulted in pros and cons in the community. Thus, further discussion is needed regarding the regulation. However, through NCTA and other ministries and institutions, the government has conducted regular evaluations and consolidations with other parties to improve the draft.

Those who disagree with the regulation say that the regulation needs to be reviewed regarding the social impact on human rights. This is because the military's involvement in military law regulates the agency's right to conduct intelligence and crackdowns to tackle terrorism. Supported by PR on Counter-terrorism, the appendix states that ministries or state institutions should prevent and detect early. Meanwhile, spying is a violation of human rights.

The annexe to the PR on Counter-terrorism states that the regulation considers human rights with the rule of law and justice, fulfillment of children's rights, security and safety. However, its application is considered excessive by some parties. Those who disagree with The National Action Plan for the Prevention and Combating of Violent Extremism that Leads to Terrorism (National Action Plan for Countering Extremism) also say that the regulation is dangerous to continue because the definition of extremism is not explained in detail in the regulation.

In addition, those who agreed to the regulation prioritized the principle of safety and the three pillars provided by the PR on Counter-terrorism: prevention the law enforcement pillar and the partnership. The number of existing cases encourages several parties to agree on the involvement of the military in National Action Plan for Countering Extremism. It is expected to be able to solve the problem of terrorism quickly and responsively in accordance with the pillars of National Action Plan for Countering Extremism. Therefore, the presidential regulation on military's involvement in counter-terrorism must be reviewed so that the regulation can be effective and does not harm the community in its implementation in terms of security and comfort.

As the determinant of policy, the House of Representatives of the Republic of Indonesia should provide consideration in deciding and formulating these rules. Review the policy's benefits in its application so that the regulation does not cause polemic in the community. The involvement of the military should be reviewed following applicable human rights principles.

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